

## ***Letter 5 – HEL and Wetland Determination***

Mr./Ms.  
Any Street  
Any Town, FL 30000

DATE

Dear :

We have just completed a preliminary highly erodible land determination and wetland determination on the following tract(s): . The Food Security Act of 1985, as amended, requires that we provide you with a “final technical determination” for highly erodible land and a “certified” wetland determination that meet current NRCS standards as per the regulations at 7 CFR 12.22 and 7 CFR 12.30(c), respectively.

The enclosed aerial photo and NRCS-CPA-026E form “Highly Erodible Land and Wetland Conservation Determination” identify any fields that have been determined to be highly erodible land (HEL) and any wetlands that have been determined to be present in accordance with the applicable regulations at 7 CFR Part 12, Section 12.6(c)(2)(i-ii).

The Food Security Act of 1985, as amended, requires any person who applies for and/or receives certain USDA program benefits to comply with the HEL and wetland conservation compliance provisions of the Act. Therefore, in order to maintain your USDA program eligibility:

1. you must use a conservation system when planting annually tilled agricultural commodity crops that will meet the soil protection requirements that result in either a substantial reduction of soil erosion or no substantial increase in soil erosion (sodbuster from *native* vegetation).

If you need assistance in developing a conservation system that will meet the criteria and protect your USDA programs eligibility, please contact us early in the year and prior to planting or producing a crop on a field designated as HEL. You may also utilize the services of a third party or technical service provider to develop a system that will meet the requirements of the provisions.

2. contact us prior to performing the following activities to see if an onsite delineation of wetland boundaries is needed, as wetland boundaries shown on this determination are approximate:
  - land clearing
  - drainage (open ditching or subsurface drainage)
  - drainage maintenance
  - filling or land leveling
  - excavation or dredging
  - any activity involving “other waters of the United States”.

In addition, you should contact the *[field office name]* Regulatory Office of the US Army Corps of Engineers and the *[insert name of]* Water Management District to find out if a Clean Water Act permit or state permit, respectively, is required before you conduct these activities. You may reach the Corps of Engineers at *[name/phone number of local Corps staff]* or refer to the Corps’s website at [http://www.saj.usace.army.mil/permit/offices/geographic\\_alignment.htm](http://www.saj.usace.army.mil/permit/offices/geographic_alignment.htm) for further information. You may reach the *[insert name of]* Water Management District at *[name/phone number of local WMD wetland permitting staff]* or refer to the District’s website at <http://www.>\_\_\_\_\_.

***CHOOSE ONE OF THE NEXT TWO PARAGRAPHS:***

In addition to wetlands, “Other waters of the United States” may exist on this property. “Other waters” include tidal waters, lakes, natural ponds, rivers, mudflats, and intermittent and perennial streams which are regulated under the Clean Water Act. Areas labeled “NI” (Not Inventoried) on this determination may contain “other waters.” **Before altering these areas, Contact the Corps of Engineers regarding the potential need for a permit.**

**OR**

On this wetland determination “other waters of the United States” besides wetlands are identified. “Other waters” are regulated by the Clean Water Act and include tidal waters, lakes, natural ponds, rivers, mudflats, and intermittent and perennial streams. The Corps of Engineers has labeled them on this determination as “OW.” Contact the Corps of Engineers regarding the potential need for a permit if you plan to alter, or have altered, these areas.

In accordance with federal law set forth at 7 U.S.C. 6991, *et seq.*, and NRCS regulations as contained at 7 CFR 614, the following information is provided to you should you wish to appeal this HEL or wetland determination:

**These preliminary technical determinations will become final and certified 30 days from the date that you received this notification** unless you request either of the following options in writing from our office:

- A field visit for reconsideration to review with you the basis for our determination and to gather any additional information from you concerning this preliminary technical determination.
- Mediation from the Florida Agricultural Mediation Service (toll free ph: 1-888-712-9421). Mediation is an informal and confidential process in which a trained, impartial facilitator helps the involved parties determine if a solution to a problem can be agreed upon. Mediation is also helpful in fully explaining the basis for the determination as well as providing you with a non-threatening arena for you to present any additional information that should be considered in making the technical determination.

If a field visit or mediation is requested, a **final technical determination** will be issued within 30 days after the field visit or completion of mediation. If you do not agree with the final technical determination, you will have 30 days from the date you receive the final technical determination to file an appeal with the USDA Farm Service Agency. Any request for appeal must be in writing and should state the reason for your appeal request as well as furnishing factual information as to why you believe the determination is in error. All appeal-related correspondence must be sent to:

FSA *[DC: enter County name]* County Committee  
*ADDRESS*  
*CITY, FL [zip]*  
ph: \_\_\_\_\_

We will forward a copy of your administrative record to the FSA County Committee for use in the appeal. Once final, the HEL determination will be listed as such on FSA and NRCS records. FSA will provide you with any further rights to review and/or appeal.

Once final/certified, the HEL/wetland determination remains with the land. The wetland determination is valid as long as the area remains in agricultural use and no land alterations are made that affect any areas that may be wetlands. The wetland determination is valid for Clean Water Act regulation purposes (administered by the US Army Corps of Engineers) for only five years from the date of certification. If

you have any questions about the information contained in this HEL or wetland determination, please contact me.

If you are the owner of this tract and have a tenant, I urge you to discuss this letter and the enclosed wetland determination with your tenant. Likewise, if you are the tenant of this tract of land, I urge you to discuss this information with your landlord.

Sincerely,

(DC's NAME)  
District Conservationist

Cc: (FSA CED's Name), County Executive Director, FSA  
*[landlord/tenant if applicable]*

Enclosures:     1. Form NRCS-CPA-026E and Aerial Photo Map  
                      2. Factsheet: *"Why Florida's Wetlands are Important"*  
                      3. Factsheet: *"What Farmers Want to Know..."*